

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
NORTHERN DIVISION

NOTICE OF REMOVAL

Pursuant to 28 U.S.C. §§ 1441(a) & 1446, *et seq.*, defendant, USAble Life Insurance Company (“USAble”), files this Notice of Removal of this action from State Court to this Court and respectfully states as follows:

1. On March 13, 2015, plaintiff, Bentina Duck (“Duck”) commenced a civil action in the Circuit Court of Jefferson County, Tennessee (“the State Court”), bearing the style *Bentina Duck v. USable Life Insurance Company*, Docket No. 24258-I (“the Civil Action”). The Civil Action is still pending in the State Court.

2. USABLE was served with a copy of the Summons and Complaint in the Civil Action on March 27, 2015, and the Summons and Complaint, copies of which are attached as Exhibit A, constitute all process, pleadings, and orders served upon USABLE in the Civil Action to date.

3. USAble has, to date, made no appearance in the Civil Action in State Court.

4. The Civil Action is one of which this Court has diversity of citizenship jurisdiction pursuant to 28 U.S.C. § 1332 and removal jurisdiction pursuant to 28 U.S.C. § 1441 in that:

- (a) USAble, both at the time of filing of the Civil Action and as of the date of filing of this Notice, was and is a corporate citizen of the State of Arkansas in that it is and was incorporated in the State of Arkansas, with its principal place of business in Arkansas.
- (b) Duck, both at the time of filing of the Civil Action and as of the date of filing this Notice, was and is a citizen of the State of Tennessee.
- (c) Diversity of citizenship exists between all parties properly joined in that they are citizens of different states and the amount in controversy exceeds \$75,000, exclusive of interest and costs. More particularly, Duck claims entitlement to \$130,564.49 in long-term disability benefits under the Policy at issue if there is an offset for Social Security benefits, or a total of \$364,642.20 in long-term disability benefits if there is no Social Security offset. (See Exh. A [Complaint at 4, ¶¶ 18-19]).
- (d) This action is within the original jurisdiction of the Court pursuant to the provisions of 28 U.S.C. § 1332.

5. USAble has filed this Notice prior to the expiration of thirty (30) days following its receipt of a copy of the Complaint.

6. USAble will give written notice to plaintiff and will file a Notice of Filing of Notice of Removal with the Clerk of the Circuit Court of Jefferson County, Tennessee. USAble attaches a copy of the Notice of Filing of Notice of Removal as Exhibit B.

7. The judicial district and division of this Court embraces Jefferson County, Tennessee, the place where the Civil Action is pending.

WHEREFORE, defendant, USAble prays that the Civil Action now pending against it in the Circuit Court of Jefferson County, Tennessee, be removed therefrom to this Court.

Dated: April 13, 2015

LATHROP & GAGE LLP

By: /s/ S. Russell Headrick
S. Russell Headrick (TN5750)
2345 Grand Boulevard, Suite 2200
Kansas City, Missouri 64108-2618
Telephone: (816) 292-2000
Telecopier: (816) 292-2001
rheadrick@lathropgage.com

ATTORNEYS FOR DEFENDANT
USable Life Insurance Company

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day April, 2015, a copy of the above pleading was served via the District Court ECM/ECF system, and by first class United States mail, postage prepaid, on the following counsel of record:

D. Seth Holliday
McMahan Law Firm, LLC
700 S. Thornton Avenue
P.O. Box 1607
Dalton, Georgia 30722
Email: sholliday@mcmahanfirm.com

ATTORNEYS FOR PLAINTIFF

/s/ S. Russell Headrick
S. Russell Headrick (TN5750)